

12-0658

IN THE CIRCUIT COURT OF RANDOLPH COUNTY, WEST VIRGINIA

STATE OF WEST VIRGINIA,  
Plaintiff,

vs.

CIRCUIT COURT CASE NO. 08-F-38

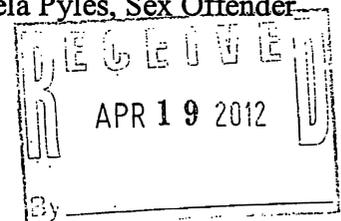
JOSHUA R. CARVER,  
Defendant.

**ORDER**

On the 27<sup>th</sup> day of March, 2012, came the State of West Virginia by its Prosecuting Attorney, Michael W. Parker, and the Defendant in person and by counsel, Steven B. Nanners. The parties appeared for a previously scheduled final hearing on the petition to revoke the Defendant's supervised release pursuant to *W. Va. Code* § 62-12-26, said petition having been filed by the Randolph County Probation Office.

The Defendant was previously convicted of four counts of Sexual Abuse in the Third Degree, a Misdemeanor, in violation of *W. Va. Code* §61-8B-9, lesser included offenses of Counts 1, 2, 3 and 4 of the Indictment in this case. Subsequent to his conviction, the Court sentenced the Defendant to ninety days in the Tygart Valley Regional Jail on each count, for a total sentence of 360 days incarceration in the Tygart Valley Regional Jail. The Court further sentenced the Defendant, upon completion of the imposed term of incarceration, to a period of extended supervision, pursuant to *W. Va. Code* §62-12-26, for a term of fifty (50) years.

The State moved the Court to take judicial notice of the testimony that had been previously spread upon the record at the preliminary revocation hearing in this case on March 9, 2012. Hearing no objection from the Defendant, the Court **GRANTED** the State's motion. The State then rested its case on the testimony previously provided by Angela Pyles, Sex Offender Probation Officer, and Jason Elmore, Probation Officer.



Counsel for the Defendant moved to dismiss the revocation petition, arguing that the Defendant had completed his lawful sentence, that there is no additional incarceration left for the Defendant to serve, and that the proceedings herein are violative of the Defendant's constitutional rights. The State opposed the Defendant's motion to dismiss and, upon hearing the arguments of counsel, the Court **DENIED** the Defendant's motion.

Counsel for the Defendant then called the Defendant, Joshua R. Carver, to testify, said testimony being more fully set forth on the record in this case. The State then cross examined the Defendant and, following said cross examination, the Defendant rested his case.

The Court then proceeded to hear arguments regarding the petition to revoke the Defendant's supervised release. The Court, after hearing from all parties, **FOUND** by clear and convincing evidence that the Defendant had violated the terms and conditions of his supervised release ordered pursuant to *W. Va. Code* § 62-12-26 by having sexual contact with an unemancipated minor under the age of eighteen (18) years.

The Court then proceeded to hear arguments from counsel regarding the appropriate disposition for the violation as is more fully set forth on the record. Following said arguments, the Court **ORDERED** the Defendant, pursuant to *W. Va. Code* § 62-12-26(g)(3), to serve six (6) months in the state penitentiary. The Court further **ORDERED** the Defendant be given credit for forty-eight (48) days served on his sentence for violating the terms of his supervised release in the above-styled case. The Court **ORDERED** that the Defendant shall be and is hereby committed to the custody of the Commissioner of the West Virginia Division of Corrections.

Based upon the foregoing, the Court **ORDERED** that the appropriate sentencing dates for the Defendant's violation of his supervised release are as follows:

**Violation Date:** March 27, 2012

**Sentencing Date:** March 27, 2012

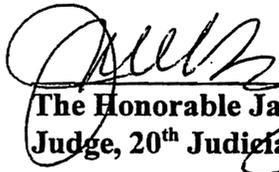
**Effective Sentencing Date:** February 8, 2012

The Court further **ORDERED** that the Defendant, upon completion of the imposed term of incarceration for violation of supervised release, shall be returned to extended supervised release pursuant to *W. Va. Code §62-12-26*, for a term of fifty years from the date of the Defendant's discharge from his underlying sentence, to be served consistently with the initial sentencing order entered in this case.

The Clerk of this Court is **DIRECTED** to forward a copy of this order to the Prosecuting Attorney, Michael W. Parker; Steven B. Nanners, counsel for the Defendant; the Randolph County Probation Office; the West Virginia Division of Corrections; and the Tygart Valley Regional Jail, 400 Abbey Road, Belington, WV 26250, Phone: 304-637-0382.

ENTER ON THIS 17<sup>th</sup> DAY OF APRIL, 2012

CG:PIA  
Nanners  
Probation  
WVDOC  
TWRJ

  
The Honorable Jaymie Godwin Wilfong  
Judge, 20<sup>th</sup> Judicial Circuit

**ENTERED**

APR 17 2012

ORDER BOOK  
NUMBER \_\_\_\_\_ PAGE \_\_\_\_\_  
PHILIP D. RIGGLEMAN, CLERK

A TRUE COPY:  
ATTEST:  
PHILIP D. RIGGLEMAN  
CLERK OF THE CIRCUIT COURT  
BY Chavez DEPUTY

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STATE OF WEST VIRGINIA,  
Plaintiff,

vs.

CIRCUIT COURT CASE NO. 08-F-38

JOSHUA R. CARVER,  
Defendant.

Certificate of Service

I, the undersigned, appearing on behalf of the State of West Virginia in the above captioned case, hereby certify that I have served a copy of the attached document(s) entitled: "Order", on this the 3<sup>rd</sup> day of April, 2012, by the following method:

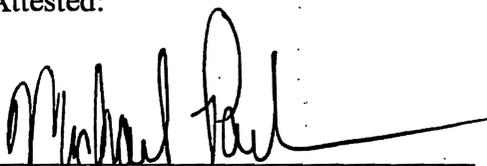
- First Class United States Mail, postage prepaid
- Hand Delivery
- Facsimile Transmission
- Depositing in appropriate box located in the Randolph County Circuit Clerks Office

upon the following parties appearing as counsel, or pro se:

Steve B. Nanners, Esquire  
45 West Main Street  
Buckhannon, WV 26201

Any objection to said Order must be submitted within five (5) days from the above date otherwise the Order will be entered as written

Attested:

  
MICHAEL W. PARKER  
WV State Bar I.D. No. 9703  
Randolph County Prosecuting Attorney  
4 Randolph Avenue  
2nd Floor Courthouse Annex  
Elkins, WV 26241